

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY

Call to Order: By **VICE CHAIRMAN PAUL CLARK**, on January 17, 2001
at 8:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Jeff Mangan (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Ken Peterson (R)
Rep. Diane Rice (R)
Rep. Bill Thomas (R)
Rep. Merlin Wolery (R)
Rep. Cindy Younkin (R)

Members Excused: Rep. Jim Shockley, Chairman (R)

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: **HB 216 - 1-10-01**
HB 168 - 1-10-01
HB 169 - 1-10-01

HB 170 - 1-10-01

HB 171 - 1-10-01

HEARING ON HB 216

Sponsor: Rep. Dennis Himmelberger, HD 18, Billings, said this Bill is an intent to increase the penalties for under-aged persons who attempt to purchase alcohol and/or tobacco products. He believes there are two major reasons to seriously consider this Bill. The first is to act as a deterrent to our youth for attempting to purchase alcohol or tobacco products. There have been prevention programs and he believes increasing the penalties will act as a deterrent. The second reason is an attempt to bring a bit of fairness to the penalties imposed on a sale by a minor. Currently under Montana Code Annotated, an underage person convicted of attempt to purchase an intoxicating substance is fined an amount not to exceed \$50 if the person is 18 or older, \$100 if the person is under 18. While the person convicted of selling to a minor is fined in the amount not to exceed \$500, imprisonment or both, on the first offense and fined \$1,000, imprisonment or both, on repeated offenses. (Letters from Proponents) **EXHIBIT(juh13a01)**

Proponents: Jim Glantz, Kalispell, said there are some technicalities to the Bill that need to be addressed. Where the word "licensee" appears, it should be amended to include "liquor stores".

Gordon Vandiviere, Huntley, Owner and Operator of a Convenient Store. **EXHIBIT(juh13a02)**

Tom Jacobson, Prevention Manager, Great Falls Prevention Center. **EXHIBIT(juh13a03)**

Ronna Christman, Petroleum Marketers' Association, who are wholesalers, distributors and retailers of petroleum products in Montana. Their two categories of membership result in a total representation of approximately 80% of the operating convenient stores in the state. One of the problems for their industry is that minors seem to consider the environment of a convenient store an easier mark than some other locations to try to purchase, most particularly, tobacco products.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 15.8}

Julie Millam, Executive Director, Christian Coalition of Montana **EXHIBIT(juh13a04)**

Bill Stevens, President, Montana Food Distributors Association.

Opponents: None

Questions from Committee Members and Responses: Rep. Adams asked Mr. Vandiviere why he sells the stuff. Mr. Vandiviers said Convenient stores probably wouldn't be in business without it. They have to sell a variety of products.

Rep. Hurdle asked Mr. Stevens if the Food Distributors Association distribute tobacco products. Mr. Stevens said the Association does not but the members do. Rep. Hurdle asked the sponsor if this Bill will penalize those young people who are in the tobacco prevention program and are handing out awards to Convenient stores who refuse to sell tobacco products to minors. Will this end the sting operation if those people will also be subjected to the penalty. Rep. Himmelberger said he hasn't specifically addressed that but would suspect so. The Bill would penalize any underage person that attempted to purchase the products.

Rep. Noennig told the sponsor he was noticing that the penalties for attempting to possess these substances appeared to exceed the penalty for actually having them. Is that a disparity? Rep. Himmelberger said he thinks that willfully attempting to purchase the product does deserve a stiffer penalty than just being in possession of the product. Having said that, he is certainly open to changes the committee suggests to make this a better bill.

{Tape : 1; Side : A; Approx. Time Counter : 15.8 - 25.2}

Reps. Mangan, Clancy, Gallus, Laszloffy, Newman, Eggers, Hurdle, Wolery, Holden asked for clarification of sections of wording in the Bill and questions to Mr. Vandiviere. Rep. Himmelberger and Mr. Vandiviere responded.

{Tape : 1; Side : A; Approx. Time Counter : 25.2 - 29}

{Tape : 1; Side : B; Approx. Time Counter : 0.1 - 21.4}

Closing by Sponsor: Rep. Himmelberger closed the Hearing on HB 216.

HEARING ON HB 168, HB 169, HB 170, HB 171

Sponsor: Rep. Dave Wazenried, HD 68, Missoula said of the four Bills, three are constitutional amendments. He did not take the

task of changing the Constitution lightly. In order for these amendments to be approved, there needs to be a 2/3 vote of the legislature and a majority of those voting on the question in 2002. Prior to executive reorganization that took place in the early 1970s there were 169 separate agencies in the state government. They all came to the legislature to lobby for the programs separately. In the 1960s the legislature decided there needed to be some order brought to that chaos because there were amendments to add more departments and more expenditures. There was a policy decision made and a proposal sent to the voters in 1968 to amend the Constitution to bring order to that. The 1889 Constitution was amended in 1968 to require that there be no more than 20 departments in the executive branch of state government. Subsequent legislative sessions implemented the constitutional provisions. At one time there were 19 departments. Over the years the number of departments was reduced. There are now 16 departments in state government.

The first Bill, HB 168, proposes a constitutional amendment to the voters, requiring a 2/3 vote of the legislature, to reduce the number from 20 to 12. HB 171 requires that if the voters vote for this constitutional initiative in the majority, in 2002 an executive organization would be created, a nine member commission. The Governor would chair that commission. That commission would immediately review the structure of executive branch of state government. This Bill simply deals with structure. The commission would be charged in coming back to the 2005 legislature, with the benefit of public hearings been held and the resources brought to bear, to bring us into line with the new 12 department alignment.

{Tape : 1; Side : B; Approx. Time Counter : 21.4 - 29}

{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 1.2}

Rep. Wanzenried explained **EXHIBIT(juh13a05)**

Proponents: None

Opponents: Donald L. Coburn, East Helena **EXHIBIT(juh13a06)**

Lt. Governor Karl Ohs said he was an opponent to specifically HB 169 and HB 170. The **Martz-Ohs** administration would oppose those on the basis in terms of both the 1889 Constitution and the 1972 Constitution, those two departments, Department of Labor and Industry and Department of Agriculture, were put in the constitution because they recognized then how important they are to the economy and to the people of Montana.

Bob Gilbert, Montana Dairy Association and the Montana Woolgrowers Association spoke against HB 170.

Mike Foster, Martz-Ohs Administration addressed HB 168 and HB 171. He believes this Administration should be given the opportunity to look at the executive structure and to make determinations about what direction to head in reorganization and restructuring. He is concerned that these Bills will ham-string the Administration potential. **Governor Martz and Mr. Foster** did visit with **Rep. Wanzenried** and had a constructive discussion about his Bills.

Dale Schuler, President, Montana Grain Growers **EXHIBIT**(juh13a07)

Webb Brown, Montana Chamber of Commerce.

Carol Lambert, WIFE (Women Involved in Farm Economics)

{Tape : 2; Side : A; Approx. Time Counter : 1.2 - 22.8}

Nancy Schlepp, Montana Farm Bureau

Sharon Quisenbery, Dean and Director, College of Agriculture, MSU

Art Loendorf, Montana Farmers' Union

Tom Schneider, Montana Public Employees' Association

Gene Fenderson, Labor, Teamsters, Operating Engineers, Ironworkers and Smith Finishers' Union.

{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 1.7}

Darrel Holzer, Montana State AFL-CIO

Questions from Committee Members and Responses: **Rep. Gallus** referred to **Rep. Wanzendried** saying it was his understanding that **Rep. Wanzenried** is not trying to get rid of the Department of Agriculture. **Rep. Wanzenried** said the proposal is to eliminate the constitutional requirement that we have in the case of the Department of Agriculture, HB 170 and the constitutional status of the Department of Labor and Industry, HB 169. It does not eliminate the kinds of programs that the opponents testified to. He feels they do not need a constitutional requirement that they have a department by name in the constitution. That is the philosophical difference.

Reps. Gallus, Curtiss, and Newman asked for clarification from **Mike Foster** and **Rep. Wanzenried**.

Rep. Noennig asked **Rep. Wanzenried** why he was suggesting this now. **Rep. Wanzenried** said he submitted three of these Bills in the 1993 Session and also the 1993 Special Session. He was assured by the Administration at that time that it would take on the responsibility of reorganizing the executive branch. Some changes were made but not comprehensively. From the eight years when those Bills were introduced and now, he continued to be interested in the executive branch.

Reps. Hurdle, Peterson to **Rep. Wanzenried** for clarification

ADJOURNMENT

Adjournment: 10:10 A.M.

REP. JIM SHOCKLEY, Chairman

MARY LOU SCHMITZ, Secretary

JS/MS

EXHIBIT (juh13aad)